

**FULL TEXT OF MEASURE B  
COUNTY OF ORANGE**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA

THE PEOPLE OF THE COUNTY OF ORANGE HEREBY ORDAIN AND  
ENACT AS FOLLOWS:

**SECTION 1. TITLE**

This ordinance shall be known as the **ORANGE COUNTY PUBLIC SAFETY SALES TAX ELIGIBILITY ORDINANCE**.

**SECTION 2. FINDINGS AND DECLARATIONS**

- (a) The Local Public Safety Protection and Improvement Act of 1993, established by Proposition 172, codified at Article 13, Section 35 of the California Constitution, provides funding for local public safety services through imposition of a one-half cent sales tax.
- (b) Proposition 172 funding was intended to make up for the loss of county and city revenue resulting from 1992 State legislation that shifted property tax revenue from counties and cities to the Education Revenue Augmentation Fund ("ERAF") to help fund schools.
- (c) In Fiscal Year 2003-2004 the revenue lost to the County of Orange because of the ERAF shift was over \$261 million.
- (d) The Orange County Fire Department, now the Orange County Fire Authority, was exempt from the ERAF shift and for Fiscal Year 2003-2004 lost no revenue as a result of the ERAF shift.
- (e) Proposition 172, as implemented, gives authority to the County to allocate Proposition 172 sales tax revenues to public safety services.
- (f) The County currently allocates its Proposition 172 funds to the Sheriff's Department and the District Attorney's Office that both lost funding because of the ERAF shift and not to the Orange County Fire Authority that was exempt from the ERAF shift and lost no revenues because of ERAF.
- (g) The People of the County of Orange find that it is necessary and appropriate to provide a legislative guarantee that the County's Proposition 172 sales tax revenues shall be allocated only to the eligible countywide public safety services as provided in this Ordinance.
- (h) The Orange County Sheriff-Coroner Department provides countywide public-safety services, including crime prevention activities; dive team; forensic science services, including a state-of-the-art DNA analysis laboratory; communications, including the 800 MHz communications system used by every jurisdiction in the county; investigation of economic and computer crimes; enforcement of fugitive warrants; hazardous device squad; helicopter response; homicide detail; hostage negotiation; mounted patrol; narcotics detail; operation of county jail system, including jail inmate transportation; sexcrime and family-protection detail; coroner investigations; and courtroom security.
- (i) Dispatch calls to the Orange County Sheriff-Coroner Department in 2004 resulted in approximately 64,000 reports generated for investigation and disposition by the Sheriff's Department. The Orange County jail system is the third largest in California and eleventh largest in the nation. Approximately 5,900 felons and misdemeanants from every jurisdiction within the county are housed in the county's jails on any given day. This is a 9.3% increase over the previous year's headcount average. In fiscal year 2003-2004, 64,933 inmates were booked into the county jail system, a 4.84% increase over the prior year.
- (j) The Orange County Sheriff-Coroner Department is the lead agency for purposes of homeland security for the Orange County Operational Area, which encompasses the entire county and is comprised of 114 member agencies. Among its functions as lead agency for the County's anti-terrorism and homeland security efforts is the administration of the Terrorism Early Warning Group, which monitors trends and threats that could result in terrorist attacks anywhere in the county and integrates disease surveillance, essential to identifying biological terrorism, into its overall analysis of terrorist threats. The Sheriff's Department is also responsible for the preparation and adoption of the countywide Emergency Management Plan and the planning and staging of full-scale terrorism and other emergency-response exercises.
- (k) The residents of Orange County rely on the Orange County District Attorney to bring criminals to justice by initiating and conducting prosecutions for public offenses, as mandated by the California

Government Code. The District Attorney prosecutes felony and misdemeanor crimes, investigates criminal activity through partnerships with county law enforcement agencies, and processes petitions for juvenile wardship.

- (l) In 2004, the Orange County District Attorney prosecuted 78,405 defendants, including the prosecution of 8 cold-case murders, with a conviction rate in excess of 90%. The District Attorney is also responsible for representing the People of Orange County in certain civil matters before the courts, including major litigation aimed at protecting Orange County's groundwater supply from MTBE contamination from gasoline retailers.
- (m) The Orange County Probation Department is responsible for monitoring adult criminals and juvenile offenders, detaining juvenile offenders, enforcing court orders and collecting restitution for victims of crime across the county.
- (n) In 2004 the Probation Department actively supervised a monthly average of some 9,856 high-risk adult criminals, including sex offenders, and 4,182 juvenile offenders. The Probation Department discontinued supervision of 3,200 adult criminals in Fiscal Year 2003-2004 due to budget cuts that reduced its funding.
- (o) Daily there are approximately 800 juvenile offenders housed in the Probation Department's juvenile detention facilities. The Probation Department's Juvenile Court Division processes a monthly average of 375 juveniles for detention and 700 for supervision and conducts a monthly average of 130 investigations for the court. The Probation Department's Adult Court Division conducts a monthly average of 81 investigations for the court. There are over 450 adult sex offenders under the Probation Department's supervision and some 550 serious gang cases are under investigation by its Gang Violence Suppression Unit. The Probation Department confiscated 669 weapons in 2004.
- (p) California Elections Code section 9221 provides that if the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.
- (q) This Ordinance is intended to be in conflict with and inconsistent with each and every provision of, and is intended as an alternative to, the "Initiative Reallocating a Portion of County Proposition 172 Funds from the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority". Further, the People do intend that this Ordinance is in conflict with and is not complementary to any other measure on the same ballot that allocates any portion of the County's Proposition 172 sales tax revenues. *Taxpayers to Limit Campaign Spending v. FPCC*, 51 Cal. 3d 744 (1990); *Concerned Citizens v. City of Carlsbad*, 204 Cal. App. 3d 937 (1988).

**SECTION 3.** Article 4 of division 2 of Title 1 (commencing with Section 1-2-42) of the Codified Ordinances of Orange County is added to read:

**Section 1-2-42 Definitions**

For the purpose of this article, the following definitions shall apply:

"County" means County of Orange.

"County's Share" means the portion of the Public Safety Fund that is not allocated to cities.

"Eligible Public Safety Services" means the countywide public safety services provided by the County Probation Department, including its juvenile hall detention facilities and its adult and juvenile offenders' monitoring programs; the County's Sheriff-Coroner Department, including its adult correctional facilities, investigative divisions, specialized patrol functions and coroner investigation teams; the County's District Attorney's Office, including its prosecution and investigative units; County lifeguards; and no other public safety services defined by the Law or permitted by the Law to receive Proposition 172 sales tax revenues.

"Law" means the local Public Safety Fund Law (California Government Code Title 3, Division 3, Chapter 6.5, Section 30051 *et seq.*), as may be amended from time to time, and as intended as the legislature's implementation of Article XIII, Section 35 of the California Constitution.

"Public Safety Fund" means the Public Safety Augmentation Fund created in the County Treasury pursuant to the terms of the Law.

**SECTION 1-2-43 Allocation of County Share of the Public Safety Fund**

The County shall annually allocate and appropriate the County's Share of the Public Safety Fund only to Eligible Public Safety Services as defined by this Ordinance.

**SECTION 4. COMPETING MEASURES**

Notwithstanding any provision or provisions in any other measure on the same ballot, the People intend that this Ordinance is in conflict with and is inconsistent with each and every provision of, and is intended as an alternative to, the "Initiative Reallocating a Portion of the County Proposition 172 funds from the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority" or any other competing measures on the same ballot as this measure that purports to allocate any portion of the County's Proposition 172 sales tax revenue.

#### SECTION 5. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of Orange County hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

### IMPARTIAL ANALYSIS BY COUNTY COUNSEL MEASURE B

In 1993, California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172), a constitutional amendment, directing that proceeds of a one-half cent statewide sales tax be used only for local public safety services. Qualified counties, including Orange County, receive allocations of Proposition 172 funds from the State. Within each qualified county, the Proposition 172 funds are allocated to cities that provide local public safety services, and the remainder is allocated to the county. Proposition 172 funds must be used for public safety services as specified in California law, including sheriffs, police, fire protection, county district attorneys, county corrections and ocean lifeguards. Currently, Orange County's share of Proposition 172 funds that is not allocated to the cities (the "County's Share") is allocated to the County Sheriff-Coroner and District Attorney for law enforcement services.

If this measure is adopted, the current allocation could continue. The County would be limited to allocating the County's Share to the eligible public safety services provided by the County, specifically, the County Probation Department (including juvenile hall and adult and juvenile offenders' monitoring programs), the County Sheriff-Coroner (including adult correctional facilities, investigative divisions, specialized patrol functions and coroner investigation teams), the County District Attorney (including prosecution and investigation units) and County lifeguards.

The measure provides that it is in conflict with and intended as an alternative to competing measures on the ballot that allocate any portion of the County's Proposition 172 funds, including the Initiative Reallocating a Portion of the County's Proposition 172 Funds From the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority (Measure D).

**MEASURE B****Orange County Public Safety Sales Tax Eligibility Ordinance  
Fiscal Impact Statement**

If passed, there would be no overall fiscal effect to the amount of revenues available to support countywide public safety services provided by the County of Orange (County). In addition, there would be no cost to the County to implement the measure.

This measure would eliminate the discretion of the Board of Supervisors to allocate Proposition 172 funds to public safety services that are not provided for in the measure. The measure specifically identifies the County Sheriff-Coroner Department, the County District Attorney's Office, the County Probation Department, and County lifeguards as the only public safety services eligible to receive the County's share of Proposition 172 sales tax revenues. Historically, County distributions of Proposition 172 funds have allocated 80 percent of the revenues to the Sheriff and 20 percent to the District Attorney.

In 1993, the California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172) as a mitigation measure to offset the impact of the Education Revenue Augmentation Fund (ERAF) shifts on municipal budgets. In 1992 and 1993, the California Legislature and Governor instructed county auditors to shift the allocation of local property tax revenues away from local government to ERAF for the benefit of schools. The allocation formula is based on the proportionate share of net property tax loss due to the ERAF shifts. The following table illustrates the relationship between these ERAF shifts and Proposition 172 County revenues:

Year	ERAF	Proposition 172	Variance
1992-93	\$(14,527,988)	--	\$(14,527,988)
1993-94	(159,328,571)	\$130,357,584	(28,970,987)
1994-95	(157,840,022)	141,143,489	(16,696,533)
1995-96	(158,216,656)	152,494,439	(5,722,217)
1996-97	(159,372,366)	161,186,301	1,813,935
1997-98	(164,444,481)	173,665,323	9,220,842
1998-99	(174,106,932)	184,049,906	9,942,974
1999-00	(188,481,617)	209,748,928	21,267,311
2000-01	(206,551,203)	223,604,856	17,053,653
2001-02	(225,274,561)	213,607,460	(11,667,101)
2002-03	(244,917,635)	219,562,310	(25,355,325)
2003-04	(261,247,391)	236,946,901	(24,300,490)
2004-05	<u>(283,310,895)</u>	<u>262,101,986</u>	<u>(21,208,909)</u>
	<u>\$(2,397,620,318)</u>	<u>\$2,308,469,483</u>	<u>\$(89,150,835)</u>

There are no plans in the State for reducing or eliminating these ERAF shifts. A separate shift, not illustrated in the table above, took \$27,730,861 from the County's 2004-05 budget and will take an additional \$27,730,861 from the 2005-06 budget. Future Proposition 172 revenues over the next eleven years, based on the Chapman University forecast are as follows:

	Estimated Proposition 172 Sales Tax Revenues		Estimated Proposition 172 Sales Tax Revenues
2004-05	\$262,101,986	2010-11	\$345,914,960
2005-06	276,255,493	2011-12	361,827,049
2006-07	288,963,246	2012-13	378,471,093
2007-08	302,255,555	2013-14	395,880,763
2008-09	316,159,311	2014-15	414,091,278
2009-10	330,702,639	2015-16	433,139,477

If passed, this measure would require that none of these revenues nor any other future revenues resulting from Proposition 172 would be expended for public safety services that were not part of County government as defined by the measure.

The County's "discretionary" funding for public safety programs is budgeted at \$182,652,995 for 2005-06. When added to Proposition 172 funds, spending for public safety will amount to about \$458,908,488. Accordingly, Proposition 172 funding represents approximately 60% of the County's budget that is used to support the County's public safety programs. Passage of this measure would limit future funding reductions to these programs by eliminating the Board of Supervisors' ability to transfer Proposition 172 funds to non-County entities.

David E. Sundstrom  
County Auditor-Controller

## ARGUMENT IN FAVOR OF MEASURE B

Your YES vote on Measure B will protect our county law enforcement funds from being raided.

In 1993, the voters of Orange County passed Proposition 172 to provide county sales tax revenue for public safety services as determined by each county based on need. In Orange County, these funds are distributed to public safety agencies that provide services to all of Orange County and are a critical source of revenue for the Orange County Sheriff's Department and the District Attorney's Office.

Proposition 172 monies are vital to the protection of public safety in Orange County. They are used to pay for Deputy Sheriff's patrols, crime prevention services, anti-gang measures, and the investigation and prosecution of violent criminals.

Unfortunately, Orange County Fire Authority bureaucrats are trying to raid our Proposition 172 funds. The Fire Authority, which only serves 43% of Orange County, is already flush with money because, they are largely funded by property tax revenue ... and soaring Orange County real estate is providing them a windfall.

If successful, THIS TAX GRAB WOULD RESULT IN REDUCED LAW ENFORCEMENT SERVICES for all Orange County residents.

Losing our Proposition 172 monies would mean fewer law enforcement patrols in our neighborhoods, fewer prosecutors in our courts, and more criminals on our streets.

Measure B will prevent this nightmare scenario for the people of Orange County by ensuring that Proposition 172 monies can only be used for county law enforcement and crime prevention services.

Measure B will keep our county law enforcement tax dollars where they belong—fighting crime and protecting our communities.

PLEASE JOIN LAW ENFORCEMENT AND CRIME VICTIMS IN VOTING YES ON MEASURE B.

s/ Mike Carona  
Orange County Sheriff

s/ Chris Norby  
Orange County Supervisor

s/ Dick Ackerman  
State Senator-Minority Leader

s/ Paul Martin Walters  
Chief of Police Santa Ana Police

s/ Genelle Reilley  
Board Member, Crime Victims United

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE B

Measure B does not provide a single penny for fire fighters, despite the voters being promised during the statewide campaign for Proposition 172 that a portion of Proposition 172 funds would be used for fire protection services.

Measure B would allow the Board of Supervisors to **continue ignoring the voters' instructions** – your instructions. When the citizens of Orange County voted for Proposition 172 following the devastating fire storms in Laguna Beach in 1993, it was the voters' intent that **fire protection** would receive a portion of Proposition 172 funds.

Don't allow the Board of Supervisors to get away with this shameful and deceptive hoax and their same old scare tactics.

When you need fire fighters and paramedics, they are there to help you. Now, paramedics and fire fighters need **your** help.

For more information and to help support the firefighters go to:

[www.Firefightersforpublicsafety.com](http://www.Firefightersforpublicsafety.com)

Please vote NO on Measure B.

s/ Ken Blake, Mayor of the City of La Palma

s/ James V. Lacy, Dana Point City Council

s/ Richard Chavez, Mayor Pro Tem of the City of Anaheim

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters' Association

## ARGUMENT AGAINST MEASURE B

Don't be fooled by the Supervisors' attempts to trick you. Measure B does not provide a single penny for fire fighters. Measure B was placed on the ballot by the Supervisors to confuse you.

In 1993, while homes burned in Laguna Beach, voters in Orange County adopted Proposition 172, which extended a half-cent sales tax to be used exclusively to fund **fire protection**, police and other public safety programs. As indicated in the statewide ballot pamphlet argument printed in favor of Proposition 172, the voters were **promised** that a portion of Proposition 172 funds would go to **fire protection**.

Since the passage of Proposition 172, over \$2 billion in funds have been given to the County, yet the Supervisors have failed to provide a single penny from the Proposition 172 fund for fire protection.

Measure B **does not provide a single penny for increased paramedic service, or fire protection**. The only thing it does is allow the Supervisors to break a promise made to the voters in 1993 that fire fighters would receive some of the Proposition 172 funds.

Because of the Supervisors' refusal to provide a single penny of Proposition 172 funds for fire protection, your Orange County Fire Authority firefighters are forced to use aging Vietnam-era helicopters, twenty year-old trucks and over half of your Orange County Fire Authority fire stations are understaffed.

Your fire fighters and paramedics have always been there for you. Today they need your help.

Please vote **NO ON MEASURE B**.

s/ Ken Blake, Mayor of the City of La Palma

s/ James Lacy, Dana Point City Council

s/ State Senator Bill Morrow

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters

## REBUTTAL TO ARGUMENT AGAINST MEASURE B

The argument against Measure B is filled with half-truths and misleading statements. Here are three good reasons to SUPPORT MEASURE B.

1. PREVENT DOUBLE DIPPING--Measure B will prevent the Orange County Fire Authority from "double dipping" in local tax monies.

Unlike county law enforcement, the Fire Authority receives millions of dollars from dedicated property taxes paid by local homeowners. Now, they want to take our sales tax monies as well.

2. STOP THE TAX GRAB--Measure B will ensure that our Proposition 172 sales tax revenues are used for public safety services that benefit ALL the people of Orange County.

The Fire Authority is a regional special district that serves only 43% of Orange County's population, yet they want to force 100% of Orange County taxpayers to pay their tab. Measure B will stop this unfair tax grab.

3. FIGHT CRIME--Measure B will ensure that county public safety dollars are used for neighborhood patrols, anti-gang programs and other vital law enforcement services needed to combat crime.

The number of fires and emergency response calls handled by the Fire Authority has DECLINED significantly in the past decade. During this same period, the Fire Authority has substantially INCREASED its spending—including \$50 million for a luxurious Administration building, described as the "Taj Mahal" of Orange County.

Measure B will prevent this free-spending Fire Authority from diverting county resources away from needed crime fighting services that benefit all Orange County residents.

Police, Prosecutors and Crime Victims ask you to VOTE YES on MEASURE B.

s/ Mike Carona  
Orange County Sheriff

s/ Chris Norby  
Orange County Supervisor

s/ Miguel A. Pulido  
Mayor, City of Santa Ana

s/ Bruce W. Whitaker  
Founder, Fullerton Association of Concerned Taxpayers

s/ Genelle Reilley  
Board Member Crime Victims United